

REMARKS

Claim Rejections

Claims 1-44 are rejected under 35 U.S.C. § 112, second paragraph. Claims 1 and 4 are rejected under 35 U.S.C. § 102(b) as being anticipated by Collins et al. Claims 3, 6, 11, 13, 14, 16, 19, 21, 22, 24, 25, 27, 29, and 31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Collins et al. in view of Yu. Claims 7 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Collins et al. in view of Suzuki. Claims 35 and 38 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Collins et al. in view of Wang. Claims 9, 15, 20, and 26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Collins et al. in view of Yu as applied to claims 3, 11, 16, and 22, and further in view of Suzuki. Claims 37, and 40-43 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Collins et al. in view of Yu as applied to claims 3, 16, 22, and 29, and further in view of Wang. Claim 39 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Collins et al. in view of Suzuki as applied to claim 7, and further in view of Wang.

Claims 2, 5, 8, 12, 17, 23, 30, 32-34, 36, and 44 would be allowable is rewritten to overcome the rejection(s) under 35 U.S.C. § 112, second paragraph, as set forth in the outstanding Office Action, and to include all of the limitations of the base claim and any intervening claims.

Amendments to Specification

Applicant has amended the Specification as noted above to cure obvious grammatical and idiomatic inaccuracies. It is believed that the foregoing amendments to the Specification overcome the outstanding objections thereto. No "new matter" has been added to the original disclosure by the foregoing amendments to the Specification.

Drawings

It is noted that the Examiner has accepted the drawings as originally filed with this Application.

Claim Amendments

By this Amendment, Applicant has canceled claims 1, 6, 7, 9, 11, 13, 15, 16, 18, 20, 21, 22, 24, 26-29, 31, 34, 35, 37, and 39-43, amended claims 2, 3, 4, 5, 32, and added new claim 45 to this application. It is believed that the amended claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

Regarding claims 4, 10, 14, 19, 25, and 38, the primary reference to Collins et al. teaches a LED element (11) located over a dimple (16) in a depressed region (14) of a tab (12). However, there is no suggestion in Collins et al. of the bowl has a recessed face having at least two steps.

It is axiomatic in U.S. patent law that, in order for a reference to anticipate a claimed structure, it must clearly disclose each and every feature of the claimed structure. Applicant submits that it is abundantly clear, as discussed above, that Collins et al. do not disclose each and every feature of Applicant's amended claims and, therefore, could not possibly anticipate these claims under 35 U.S.C. § 102. Absent a specific showing of these features, Collins et al. cannot be said to anticipate any of Applicant's amended claims under 35 U.S.C. § 102.

There is no suggestion in either Yu, Suzuki, or Wang of the bowl has a recessed face having at least two steps.

Even if the teachings of Collins et al., Yu, Suzuki, and Wang were combined, as suggested by the Examiner, the resultant combination does not suggest: the bowl has a recessed face having at least two steps.

It is a basic principle of U.S. patent law that it is improper to arbitrarily pick and choose prior art patents and combine selected portions of the selected patents on the basis of Applicant's disclosure to create a hypothetical combination which allegedly renders a claim obvious, unless there is some direction in the selected prior art patents to combine the selected teachings in a manner so as to negate the patentability of the claimed subject matter. This principle was enunciated over 40 years ago by the Court of Customs and Patent Appeals in In re Rothermel and Waddell, 125 USPQ 328 (CCPA 1960) wherein the court stated, at page 331:

The examiner and the board in rejecting the appealed claims did so by what appears to us to be a piecemeal reconstruction of the prior art patents in the light of appellants' disclosure. ... It is easy now to attribute to this prior art the knowledge which was first made available by appellants and then to assume that it would have been obvious to one having the ordinary skill in the art to make these suggested reconstructions. While such a reconstruction of the art may be an alluring way to rationalize a rejection of the claims, it is not the type of rejection which the statute authorizes.

The same conclusion was later reached by the Court of Appeals for the Federal Circuit in Orthopedic Equipment Company Inc. v. United States, 217 USPQ 193 (Fed.Cir. 1983). In that decision, the court stated, at page 199:

As has been previously explained, the available art shows each of the elements of the claims in suit. Armed with this information, would it then be non-obvious to this person of ordinary skill in the art to coordinate these elements in the same manner as the claims in suit? The difficulty which attaches to all honest attempts to answer this question can be attributed to the strong temptation to rely on hindsight while undertaking this evaluation. It is wrong to use the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit. Monday morning quarterbacking is quite improper when resolving the question of non-obviousness in a court of law.

In In re Geiger, 2 USPQ2d, 1276 (Fed.Cir. 1987) the court stated, at page 1278:

We agree with appellant that the PTO has failed to establish a *prima facie* case of obviousness. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination.

Applicant submits that there is not the slightest suggestion in either Collins et al., Yu, Suzuki, or Wang that their respective teachings may be combined as suggested by the Examiner. Case law is clear that, absent any such teaching or suggestion in the prior art, such a combination cannot be made under 35 U.S.C. § 103.

Neither Collins et al., Yu, Suzuki, nor Wang disclose, or suggest a modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious Applicant's amended claims 4, 10, 14, 19, 25, and 38.

The Examiner has indicted that claims 2, 5, 8, 12, 17, 23, 30, 32, 34, 36, and 44 would be allowed if rewritten in independent form. Applicant's amended claim 2 comprises a combination of original claims 1 and 2, thus redrafting claim 2 in independent form. Original claims 8, 12, 17, 23, 30, 33, 36 and amended claim 5 all depend from amended claim 2. In the absence of any art cited against Applicant's original claim 2, it is not believed that any detailed discussion of the cited prior art references is necessary. Applicant's amended claim 32 comprises a combination of original claims 1, 22, and 32, thus redrafting claim 32 in independent form. Original claims 44 and amended claim 3 all depend from amended claim 32. In the absence of any art cited against Applicant's original claim 32, it is not believed that any detailed discussion of the cited prior art references is necessary.

Application No. 10/781,888

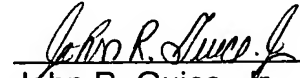
Summary

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

Date: September 1, 2006

By:


John R. Guice, Jr.
Reg. No. 39,699

TROXELL LAW OFFICE PLLC
5205 Leesburg Pike, Suite 1404
Falls Church, Virginia 22041
Telephone: 703 575-2711
Telefax: 703 575-2707

CUSTOMER NUMBER: 40144